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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/301,624    04/29/99    MATUSCH    S    016794/0383

IM62/0329

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EXAMINER
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REIFSNYDER, D

ART. UNIT	PAPER NUMBER
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1723

DATE MAILED: 03/29/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/301,624

Applicant(s)  
Matusch et al.

Examiner  
David A. Reifsnnyder

Group Art Unit  
1723



☒ Responsive to communication(s) filed on Nov 17, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-17 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been
- ☒ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

*Note: Per the rule in 37 CFR 1.126 claims 17-19 have been written as claims 15-17 because the original filed specification failed to include a claims 15 and 16.*

#### ***Specification***

1. The incorporation of essential material on the last two lines of page 8 of the specification by reference to German Patent Application 198 19 065.4 is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

#### ***Claim Rejections - 35 USC § 112***

2. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding claim 1; the recitation of "the entire height" lacks antecedent basis and depending on how the centrifuge basket is oriented (i.e. horizontally or vertically) does not make sense. If the centrifuge basket is oriented horizontally then it can not be understood as to how the scrapper can clean the centrifuge basket along the entire height of the basket.

Regarding claim 9; the recitation of "the initial position" lacks antecedent basis.

Regarding claim 10; the recitations of "the rotational axis of the basket", "the axis of the clearing rod" and "the entire height" all lack antecedent basis.

Regarding claim 12; the recitation of "the inner wall" lacks antecedent basis. Furthermore, the recitation of "wherein the scrapper blade forms an angle with the inner wall" is vague and indefinite because two points of reference are required to create an angle.

Regarding claim 13; the recitation of "the angle" lacks antecedent basis.

Regarding claim 17; the recitation of "the scrapper blade pivots around an axis" is vague and indefinite as to whether the "an axis" is the same axis as previously claimed in claim 17, and if the axes are the same the second recitation of an axis should be changed to ---the axis---.

Furthermore, the recitation of "the inner wall" lacks antecedent basis.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1-7 and 10-13 are rejected under 35 U.S.C. 102(e) as being clearly anticipated  
Matsumoto. (See col. 12, lines 8-41; and col. 13 line 66 to col. 14, line 64)

*Note: claims 12 and 13 are clearly anticipated by Matsumoto because the applicant failed to  
define the location of his claimed angle.*

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness  
rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 9, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over  
Matsumoto.

Regarding claim 8; Matsumoto discloses the applicant's instantly claimed centrifuge  
including a centrifuge basket and a clearing rod with a hydraulically operated scrapper blade. (see  
col. 16, lines 53-59) It would have been obvious to one having ordinary skill in the art at the time  
the invention was made that the scrapper blade be pneumatically controlled since it is well known

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to in the art to that substituting pneumatic controls for hydraulic control is a matter of design choice.

Regarding claim 9; Matsumoto discloses the applicant's instantly claimed centrifuge including a centrifuge basket and a clearing rod except for the instantly claimed initial distance of the clearing from the basket. It would have been obvious to one having ordinary skill in the art at the time the invention was made that the distance that the clearing rod is initially away from the centrifuge be any desired distance e.g. 200 mm depending on the size of the centrifuge and especially the size of the centrifuge basket.

Regarding claim 16; Matsumoto discloses the applicant's instantly claimed centrifuge including a centrifuge basket and a clearing rod except for the instantly claimed orientation of the clearing rod and scrapper blade. The orientation of the clearing rod and scrapper blade is dependent on the orientation of the centrifuge basket and it would have been obvious to one having ordinary skill in the art at the time the invention was made for Matsumoto's centrifuge to operate with his centrifuge basket being at any desired orientation.

Regarding claims 17; Matsumoto et al. discloses the applicant's instantly claimed centrifuge including a centrifuge basket except for the instantly claimed orientation of the centrifuge basket. The orientation of the clearing rod is dependent on the orientation of the centrifuge basket and it would have been obvious to one having ordinary skill in the art at the time the invention was made for Matsumoto's centrifuge to operate with his centrifuge basket being at any desired orientation.

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7. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto in view of Steiner et al.

Regarding claim 14; Matsumoto discloses the applicant's instantly claimed centrifuge including a centrifuge basket and a clearing rod with a scrapper blade. Matsumoto fails to disclose that his scrapper blade has a non-stick coating. Steiner et al. teaches at col. 5, lines 23-25 that it is conventional for a scrapper blade to include a TEFLON or DERLIN coating. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included TEFLON or DERLIN coating on Matsumoto's scrapper blade as taught by Steiner et al. in order to prevent Matsumoto's crystals from sticking to his blade.

Regarding claim 15; Matsumoto discloses the applicant's instantly claimed centrifuge including a centrifuge basket, a cleaning means for cleaning the centrifuge basket, (see col. 12 line 61 to col. 12 line 6) and a clearing rod including a scrapper blade. Matsumoto fails to disclose that his clearing rod including a scrapper blade also includes the cleaning means. Steiner et al. teaches at col. 4, line 59 to col. 5 line 2 that it is conventional for a cleaning means to include a scrapper blade and a cleaning means. It would have been obvious to one having ordinary skill in the art at the time the invention was made for Matsumoto to have replaced his cleaning means with the cleaning means as taught by Steiner et al. so that Matsumoto could better clean his centrifuge basket.

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*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grimwood et al. who discloses a centrifuge basket with a pivotable scrapper and a method of clearing product from a centrifuge basket using the pivotable scrapper, the scrapper being significantly shorter than the height of the centrifuge basket.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Reifsnyder whose telephone number is (703) 308-0456. The examiner can normally be reached on Monday-Friday from 9:00AM - 5:00PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached on (703) 308-0457. The fax phone number for this Group is (703) 305-3602.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

  
David A. Reifsnyder  
Primary Examiner  
Art Unit 1723

DAR  
March 24, 2000